SINGLE BENCH

BEFORE THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WP-1735/2005(SB)
(Service Matter)

P.R. No. 1727/05 Presented by Shri A.C. Shrivastava dated 19/4/05

PETITIONER Bhulelal aged about 51 years S/o Surakhan R/o Vill. Nardhi, Po. Deokar Tahsil Bemetara Distt – Durg (CG) Permanent Gang Labourer, Employed in Public Works Department (Buildings and Roads), Sub-Division-II, Durg (CG)

VERSUS

RESPONDENTS

01. State of Chhattisgarh through Secretary, Public Works Department, Mantralay, DKS Bhawan, Po. & Distt : Raipur (CG)

02. The Sub. Divisional Officer, Public Works Department, (B&R) Sub-Division-II, Durg (CG)

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Petition under article 226/227 of the Constitution of India – For issuance of a writ of mandamus and certiorari and any other writ/direction/order.

(69)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION NO.176 OF 2005

Petitioner	:	Manaharan
	versus	
Respondents	:	State of Chhattisgarh and others

WRIT PETITION NO.351 OF 2005

Petitioner	:	Kheduram
	versus	
Respondents	:	State of Chhattisgarh and another

WRIT PETITION NO.434 OF 2005

Petitioner	:	Lalita Bai
	versus	
Respondents	:	The State of Chhattisgarh and others

WRIT PETITION NO.506 OF 2005

Petitioner	:	Dwarika Prasad Dahariya
	versus	
Respondents	:	State of Chhattisgarh and another

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WRIT PETITION NO.626 OF 2005

Petitioner : Keju Patel

versus

Respondents : State of Chhattisgarh and another

WRIT PETITION NO.654 OF 2005

Petitioner : Smt. Sabitri Bai

versus

Respondents : State of Chhattisgarh and another

WRIT PETITION NO.960 OF 2005

Petitioner : Smt. Hemin

versus

Respondents : State of Chhattisgarh and another

WRIT PETITION NO.1105 OF 2005

Petitioner : Firat Ram Kashyap

versus

Respondents : State of Chhattisgarh and others

WRIT PETITION NO.1121 OF 2005

Petitioner : Ghasiya Yadav

Versus

Respondents : State of Chhattisgarh and others

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WRIT PETITION NO.1274 OF 2005

Petitioner : Gautam Sahu

Versus

Respondents : State of Chhattisgarh and another

WRIT PETITION NO.1735 OF 2005

Petitioner : Bhulelal

Versus

Respondents : State of Chhattisgarh and another

WRIT PETITION NO.2340 OF 2005

Petitioner : Jagatpal Singh

Versus

Respondents : State of Chhattisgarh and another

WRIT PETITION NO.2362 OF 2005

Petitioner : Kashiram

Versus

Respondents : State of Chhattisgarh and another

WRIT PETITION NO.2663 OF 2005

Petitioner : Tula Ram

Versus

Respondents : State of Chhattisgarh and others

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WRIT PETITION NO.2664 OF 2005

Petitioner : Manglu

Versus

Respondents : State of Chhattisgarh and others

WRIT PETITION NO.4823 OF 2005

Petitioner : Soon Bai

Versus

Respondents : State of Chhattisgarh and others

WRIT PETITION NO.447 OF 2006

Petitioners : Smt. Tijiya Bai and others

Versus

Respondents : State of Chhattisgarh and another

WRIT PETITION NO.449 OF 2006

Petitioners : Hari Kashyap and another

Versus

Respondents : State of Chhattisgarh and another

WRIT PETITION NO.725 OF 2006

Petitioner : Sumedi Sidar

Versus

Respondents : State of Chhattisgarh and others

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Present : Mr. Satyendra Sahu, Mr. Ashok Vaishnav, Mr. P.P.Sahu, Mr. Rakesh Pandey, Mr. Sunil Otwani, Mr. B.R.Ghosh, Ms. Deepali Pandey, Mr. S.K.Dadsena, Mr. K.R.Nair, Mr. P.M.Shriwas, counsel for the petitioner(s).

Mr. V.V.S.Moorthy, Deputy Advocate General with Mr. Ajay Dwivedi, Panel Lawyer for the State of Chhattisgarh/ respondents.

ORDER
(Passed on 7th of November, 2006)

The petitioners in this batch of writ petitions are working as permanent Gang Man in the Public Works Department of the State Government. These writ petitions involve similar facts and common question of law. Thus, these writ petitions are being disposed of by this common order.

2. The petitioners were employed as permanent Gang Man with the Public Works Department of the Government. The petitioners continue to work as casual permanent Gang Man ever since. By order dated 2-4-2003/24-4-2003, the State Government decided to terminate the services of the petitioners/Gang Men working in the Public Works Department either on completing 30 years of service or attaining the age of 60 years, whichever was earlier. Pursuant to this order, the petitioners were retired from their service on completion of 30 years of service. During the pendency of these petitions, the State Government, by order dated 24-3-2005, decided to retire Gang Men working in the Public Works Department on attaining the age of 60 years and decided to delete the clause "retiring the Gang Man on completion of 30 years of service". This order was made effective from 30-3-2005.

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3. After hearing learned counsel for the parties, it is clear that the requirement of completion of 30 years of service for the purpose of retirement has been deleted with effect from 30-3-2005. Learned counsel appearing for the State submits that this order would be effective from 30-3-2005 and as such the Gang Men, who had already retired from 30-3-2005, may not be given benefit of this order. The argument of learned counsel is not tenable and the same is not accepted. Purport of the order is quite clear and unambiguous as it appears from the perusal of the order as well as from the contentions of learned counsel for the petitioners that the Gang Men who have not completed the age of 60 years as on 30-3-2005, they will be allowed to continue till they attain the age of 60 years. It is informed by learned counsel for the petitioners that some of the Gang Men, who have already retired on completion of 30 years of service, have been paid retiral benefits, i.e., gratuity only. This will be unfair, if the petitioners, who have retired before 30-3-2005 on completion of 30 years of service, though they have still some years to go before 60 years of age, are not given benefit of the order dated 30-3-2005.

4. For the reasons above-stated, the respondents are directed to allow all the Gang Men, who had retired on completion of 30 years of service, but have not attained the age of 60 years, to rejoin the service and continue till they attain the age of 60 years, subject to adjustment of the retiral benefits, if any, given to them. The retiral benefits, if any, paid earlier be deducted from the salary of the employee concerned, in installments at the maximum rate of 50% of the salary.

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5. In some of the writ petitions, the petitioners have prayed for regularization of their service as Gang Man. Learned counsel appearing for the petitioners submit that the said prayer be dismissed as not pressed at present. However, liberty be granted to the petitioners to raise the issue of regularization before the appropriate forum, if necessary. The writ petitions with regard to the prayer of regularization are dismissed as not pressed with liberty to the petitioners to raise the dispute seeking redressal of the relief of regularization, if necessary, before the appropriate forum.

6. In view of the foregoing, the writ petitions stand allowed to the extent indicated above. The respondents are further directed to comply with this order within a period of two months from the date of receipt/communication of this order. No order as to costs.

7. A copy of this order be placed on the record of the connected writ petitions.

Sd/-
S.K. Agnihotri
Judge

Gopal